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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/224,980	01/04/1999	ANTHONY R. WALDROP	2003-1	3080

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EXAMINER

BEFUMO, JENNA LEIGH

ART UNIT	PAPER NUMBER
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1771

13

DATE MAILED: 08/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/224,980

Applicant(s)

WALDROP ET AL.

Examiner

Jenna-Leigh Befumo

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 August 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

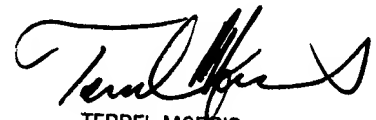
Claim(s) rejected: 6,7 and 10-14.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

Continuation of 3. Applicant's reply has overcome the following rejection(s): The 35 USC 112 1st and 2nd rejections to claims 7 and 13 in section 10, 11, and 14 of the previous Office Action..

Continuation of 5. does NOT place the application in condition for allowance because: The Applicant argues the 112 2nd paragraph rejection to claim 6 should be withdrawn since the case to which this application claims priority defines that the second yarn is a blend of textured polyester filaments and an elastomeric filament. However, while the parent application may describe what a textured polyester yarn with an elastomeric base is, the claim is still indefinite and vague since the present claim neither defines what is meant by this phrase nor does the specification. Hence, the claim as written is still indefinite. With respect to the priority, Patent No. 5,807,794, fails to teach or suggest a woven fabric. If the Applicant would like the record to show that the recited interwoven term also refers to the knit fabric described in the parent applications than not only would that broaden the field of prior art to knit fabrics, but it would also require double patenting between this application and related parent applications. However, this would not overcome the priority issue with respect to the second yarn. It is agreed that '794 discloses using textured polyester yarn, however, '794 does not teach using a blend of textured polyester filaments with an elastomeric filament. The citation from '794 stating that both the warp and weft yarns can be elastomeric yarn does not teach one of ordinary skill in the art to blend the polyester yarn with an elastomeric yarn. Instead it suggests substituting the polyester textured yarn with an elastomeric yarn since the only elastomeric yarns discussed in the patent are the sheath/core elastomeric monofilaments. There is no teaching or suggestion that the elastomeric yarn is made from a blend of the textured polyester filaments or that the elastomeric yarn is in addition to the polyestered textured filaments previously mentioned. Also, since the application does not teach any other type of elastomeric fibers besides the monofilaments which are used individually in the weave structure there is no teaching in the patent to use elastic filaments blended with other types of fibers. Without some suggestion to blend the two yarns or to make the polyester textured yarns elastic there is no support for the recited limitation in claim 6. With regards to the 103 rejections, the rejection over Gretzinger in view of Stumpf does not need motivation to add UV protection since the Gretzinger reference suggests adding UV stabilizers to the fabric. Hence Gretzinger et al. recognizes that UV degradation can be a problem and suggests stabilizers to solve this problem. With regard to the rejection based on Stumpf in view of Gretzinger, while Stumpf may not teach using the material in a car seat that does not mean the material won't be placed in sunlight. In fact car upholstery is "indoor furniture" since it is placed inside a car. It only is exposed to sunlight due to the windows. And since houses and offices have windows the chairs taught by Stumpf will also be exposed to sunlight and would require protection from harmful UV rays. Finally, the rejection based on McLarty, III in view of Gretzinger et al. is also maintained since as mentioned above indoor furniture is still exposed to UV light and since Gretzinger and McLarty, III are used for the same purpose and Gretzinger et al. teaches the protection from the sunlight and UV rays is needed as set forth above.



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